

REMARKS

This Amendment in an RCE is timely filed within the two-month period set forth in 37 CFR § 41.37(a)(1) after the Notice of Appeal of § 41.31 was filed October 3, 2005. If for some unknown reason this is not correct, please consider this filing to include a petition for the appropriate extension of time and debit our Deposit Account No. 23-0442 the appropriate fee.

Regarding the above amendment of claims 23 and 30, please note that the subject-matter of the hitherto valid dependent claims 26 and 27, and 33 and 34 have been added thereto. However, the feature regarding the network function introduced with our last reply was deleted from the independent claims 23 and 30 and used for new dependent claims, i.e., new dependent claims 37 and 38 corresponding to the original dependent claims 9 to 11 (10 and 11 combined by an "and/or" combination) and new dependent claims 39 and 40 corresponding to the original dependent claims 19 to 21 (20 and 21 combined by an "and/or" combination).

The independent claims 27 and 30 are further concretized such that the indicator to indicate an amount of fill data is provided within the fill data itself. This is disclosed on page 7, lines 21 to 23, of the substitute specification as filed (corresponding to page 8, lines 14 to 16 of the original PCT application).

Thus, a main feature of the new independent claims is that the indicator for indicating the amount of fill data is now included in the fill data itself. In this way, it is not necessary to provide some extra indicator bits to indicate the amount of fill data.

This is explained by referring to Figure 3a of the present application. Namely, in the lower example, a frame is illustrated to which fill data FD were added. The header of the frame comprises an indicator FI, which indicates in this case that the fill data are present. However, the actually amount of the fill data is indicated by an indicator which is located within the fill data itself. That is, in the case that no fill data are present at all (upper frame in Figure 3A), only the indicator FI indicating that no fill

data are present is required in the header. That is, in this case, the user data can use all bits available in the information field.

Thus, the bits can be saved in case no fill data are present in the frame at all.

With respect to the hitherto valid claims 26, 27, 33 and 34, the Examiner admitted in the first Office Action and in the final Office Action that WO 97/12490 (Rasanen) does not show these features.

Nevertheless, the Examiner referred to document US 5 901 135 (Chung). In particular, the Examiner referred to Figure 6 of Chung, in which in view of the Examiner reference signs 601 and 602 are stuff/delete bit indicators. However, as derivable from column 5, lines 16 to 19 or from column 4, lines 39 and 40, the bit 601 designates the stuff/delete bit indicator, whereas only the bit 602 is the stuff bit or the delete bit. That is, the indicator bit 601 does not indicate the actual amount of fill data. Moreover, since the indicator bit is a bit which can only have two states, it is not possible to indicate an amount of fill data. The remaining four bits are customer data or "D" bits (col. 5, lines 24-5).

A person skilled in the art would not have considered deriving the length of the fill data segment for the purpose of detecting the data rate change, and in particular would not have considered locating this indicator within the fill data itself.

Furthermore, the Rasanen document is fully silent regarding whether and where to locate an indicator for the presence/absence of the fill data and an indicator for the amount of fill data.

Hence, none of these two documents, either taken alone or in combination, could have inspired a person skilled in the art such that the subject-matter of the new independent claims would have become obvious to him. Withdrawal of the obviousness rejection of the amended independent claims 23 and 30 is requested.

The objections and rejections of the Office Action of March 29, 2005, having been obviated by amendment or shown to be inapplicable, withdrawal thereof is requested and passage of claims 23-40 to issue is earnestly solicited.

Regarding the dependent claims rejected on the same ground, they are patentably novel and nonobvious for the same reasons as given above and withdrawal of the rejection thereof is also requested.

Respectfully submitted,

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Date

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